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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,266	12/15/2003	Christopher W. Carter	93111pus	1482
6431	7590	09/29/2004	EXAMINER	
HOFBAUER ASSOCIATES SUITE 205 NORTH 1455 LAKESHORE ROAD BURLINGTON, ON L7S 2J1 CANADA			CINTINS, IVARS C	
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/734,266	CARTER, CHRISTOPHER W.	
	Examiner	Art Unit	
	Ivars C. Cintins	1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-18 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: ____ . |

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The term “as aforesaid” (claim 2, last line; claim 9, lines 2-3; and claim 12, lines 26-27) is vague, and indefinite as to the limitation intended. Claims 3-8, 10, 11 and 13-18 depend from an indefinite claim, and are therefore themselves indefinite. Applicant is advised that an amendment deleting this term from claims 2, 9 and 12 would overcome this portion of the rejection. Claims 12-18 are also incomplete because the preamble of claim 12 recites a floating member “for dispensing a disinfectant agent” but the body of this claim (i.e. element (a)) fails to positively recite any structure which would render this member capable of dispensing such an agent. Claims 13-18 depend from claim 12, and therefore suffer similarly. Applicant is advised that an amendment positively reciting that the floating member includes either means or structure for dispensing a disinfectant agent into a recirculating fluid would overcome this portion of the rejection.

Claim 11 is objected to because of the term “a group consisting of” is improper Markush language, and should be changed to “the group consisting of” in lines 2-3 of this claim.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for

patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Cole et al. (U.S. Patent No. 4,787,949). The reference discloses an absorbent body member comprising a central aperture and a surface including a plurality of radially extending “furrow” segments (see Fig. 3); and this is all that is required by claims 1-10. Applicant should note that the intended use of a device (i.e. with a floating member) is not a structural limitation, and hence cannot be relied upon to patentably distinguish apparatus claims. It is well settled that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Gsell et al. (U.S. Patent No. 5,258,127) or Mitamura et al. (U.S. Patent No. 5,618,425). Each of the references discloses a body member comprising a central aperture and a surface including a plurality of radially extending “furrow” segments (see Fig. 1 of Gsell et al.; and Fig. 2 of Mitamura et al.), which body member is made from the recited materials (see col. 5, lines 40-43 of Gsell et al.; and col. 5, line 16 of Mitamura et al.); and therefore, this body member will inherently be capable of functioning as an absorbent.

Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Clukies (U.S. Pub. No. 2004/0134858). The reference discloses an absorbent body member comprising a central aperture (see Fig. 2); and this is all that is required by claims 1-3.

Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Murphy et al. (U.S. Patent No. 5,084,171) or Shippert (U.S. Patent No. 5,676,839). Each of the references discloses a cleaning device comprising an absorbent body member secured to a floating member, as recited in claim 1.

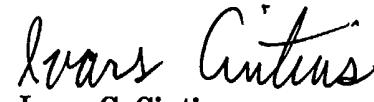
Claims 12-18 would be allowed if rewritten or amended to overcome the above rejection under 35 U.S.C. § 112 because the references of record do not teach or fairly suggest a floating member which dispenses a disinfectant agent into a recirculating fluid system in combination with a cleaning device of the type recited.

Sasaki et al. (U.S. Patent No. 4,630,634) discloses a floating member which dispenses a disinfectant agent into a recirculating fluid system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (571) 272-1155. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Duane Smith, can be reached at (571) 272-1166.

The centralized facsimile number for the USPTO is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ivars C. Cintins
Primary Examiner
Art Unit 1724

I. Cintins
September 26, 2004